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OFFICE OF SOLID WASTE AND EMERGENCY RESPONSE

PERMITTING UNITS CREATED FOR FACILITY CLOSURE

MEMORANDUM

SUBJECT: Permitting Units Created for Facility Closure

FROM: Bruce R. Weddle, Director
Permits and State Programs Division (WH-563)

TO: Hazardous Waste Division Directors and Branch Chiefs
Regions I-X

This memorandum addresses the question of whether hazardous waste management units built specifically as part of the closure process must be covered by RCRA permits. Some facilities have proposed closure schemes which involve the creation of a new tank, impoundment, pile, or incinerator to manage hazardous wastes exhumed and/or transferred during closure. A number of owners/operators have argued that creation of these new units is a necessary and temporary measure to accomplish closure of regulated units. They have sought to have the new units approved in their Part 265 closure plan rather than through the permit process.

In all cases, the addition of new units requires more than closure plan approval. In some cases it requires a permit. The Part 264 standards apply to new units added during closure as well as to new operating units. The regulations do not provide a means for exempting new units from the permitting standards simply because they are used in the closure process.

Alternatively, the addition of new units may constitute an allowable change to a facility during interim status. According to §270.72(c), changes in process or addition of processes may be allowed if a revised Part A and justification are submitted, and the Director approves the change because of an emergency situation or because it is necessary to comply with Federal regulations or State or local laws. In the case of adding a new unit for closure, this section could be applicable if the Director

agrees that the additional unit is necessary for the owner/operator to comply with Part 265 closure requirements. In no case, however, may the cost of adding these units exceed 50% of the cost of building a comparable entirely new facility (§270.72(e)).

cc: Permit Section Chiefs, Regions I-X

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